

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	June 30, 2017
Time of Incident:	10:21 pm
Location of Incident:	XXXX S. Michigan Ave
Date of COPA Notification:	July 3, 2017
Time of COPA Notification:	11:46 am

On June 30, 2017, Chicago Police Officers A and B pulled over Subject 1. After Subject 1 exited the vehicle, the officers handcuffed him and Officer A patted him down. Officer A also searched Subject 1's car. Subject 1 was unhappy about being stopped, and expressed his displeasure to the officers accordingly. Officers C and D were patrolling the area and stopped to offer assistance. Officers C and D spoke to Subject 1 on the side of the road to de-escalate the situation. After the officers un-handcuffed Subject 1, they gave him two traffic tickets and all parties left the scene.

**II. INVOLVED PARTIES**

Involved Officer #1:	Officer A, #XXXX, Employee #XXXXXX, Unit XX, DOA XXX, Police Officer, 32 YOA, male, white
Involved Officer #2:	Officer B, #XXXX, Employee #XXXXXX, Unit XX, DOA XXX, Police Officer, 38 YOA, male, black
Witness Officer #1:	Officer D, #XXXX, Employee #XXXXXX, Unit XX, DOA XXX, Police Officer, 39 YOA female, Hispanic
Witness Officer #2:	Officer C, #XXXX, Employee #XXXXXX, Unit XX, DOA XXX, Police Officer, 49 YOA, female, black
Subject #1:	Subject 1, 37 YOA, male, black

**III. ALLEGATIONS**

Officer	Allegation	Finding
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<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Officer Officer A	1. Pulled Subject 1 out of his vehicle without justification, in violation of Rule 8. 2. Patted down Subject 1 inappropriately by grabbing Subject 1's groin and buttocks, in violation of Rule 8. 3. Searched Subject 1's vehicle without justification or permission, in violation of Rule 1. 4. Handcuffed and detained Subject 1 without justification, in violation of Rule 1.	Unfounded Unfounded Unfounded Unfounded
Officer Officer B	1. Handcuffed and detained Subject 1 without justification, in violation of Rule 1.	Unfounded

#### IV. APPLICABLE RULES AND LAWS

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##### Rules

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1. Rule 1: Prohibits violation of any law or ordinance.
  2. Rule 8: Prohibits disrespect or maltreatment of any person, while on or off duty.
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##### Federal Laws

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1. U.S. Constitution, Fourth Amendment
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##### State Laws

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1. 730 ILCS 5/3-3-7: Conditions of Parole or Mandatory Supervised Release

#### V. INVESTIGATION<sup>2</sup>

##### a. Interviews

In his July 3, 2017 statement to COPA,<sup>3</sup> **Complainant Subject 1** stated that, during a traffic stop, Officer A asked for Subject 1's license and registration. Subject 1 refused to give the officer the documents until Officer A explained why they pulled him over. After handing Officer A his documentation, Subject 1 then asked for the tickets so he could leave. Officer A responded by asking Subject 1 if there was anything in his car that Officer A should know about. Subject 1 informed Officer A that anything that was in his vehicle was not Officer A's concern. Officer A then instructed Subject 1 to get out of the car, which Subject 1 refused to do. Officer A opened the car door, grabbed Subject 1's left upper arm, and pulled him out of the car. Subject 1 initially refused to follow Officer A's instruction to step behind his car and only complied when Officer A explained that he did not want Subject 1 standing in traffic. Officers A and B handcuffed Subject

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<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>3</sup> Attachment 6.

1, who argued with the officers about whether this constituted an arrest. The officers maintained they were merely detaining Subject 1. Officer A searched Subject 1 by feeling his pockets, having contact with Subject 1's crotch and buttocks in the process. Subject 1 related that he felt that this search was akin to a sexual assault.

Officers C and D arrived on scene in their own squad car and attempted to calm Subject 1. At the same time, Officer A searched Subject 1's car by reaching under the front seat and looking in the center console. Once Officer A finished searching the vehicle, Officer B released Subject 1 from the handcuffs and gave him two traffic tickets. Subject 1 described himself as being "highly pissed off" that night. He also mentioned, without prompting, that he was arrested in 1994 for first degree murder and was released on parole in December 2016.

In his October 10, 2017 statement to COPA,<sup>4</sup> **Accused Officer B** stated that he and Officer A observed Subject 1 driving with an obstruction in his rearview mirror and an unlit license plate light. Officer A approached the driver's side while Officer B went to the passenger side. Officer B heard Officer A explain the reasons for the traffic stop. After a conversation, Officer A asked Subject 1 to exit the vehicle. Subject 1 appeared to be very agitated when he got out of the car. Officer B heard Subject 1 raise his voice and demand to know why he had to get out of the car, without giving Officer A the chance to respond. Officer B believed this confrontational behavior is why Officer A decided to handcuff Subject 1.

Officer A asked Subject 1 to walk to the back of his vehicle, where he conducted a pat down search by patting down the outer clothing around Subject 1's legs, ankles, waist, and chest to search for a weapon. Officer A then moved to the front of the vehicle while Officer B stayed with Subject 1. Officer B observed Officer A search the vehicle by leaning into the driver's side and searching around the front seats. Officer B recalled that Subject 1 refused to speak with Officer A and said that he felt that he was being harassed. Subject 1 also told Officer B that he does not like white police officers. Officer B did not hear Subject 1 complain that he felt like he had been sexually assaulted during the pat down search.

In his October 10, 2017 statement to COPA,<sup>5</sup> **Accused Officer A** provided the same account of the traffic stop as Officer B did in his statement to COPA. Officer A added that he saw Subject 1 moving his right hand quickly near the center console and that Subject 1 ignored Officer A's instruction to show his hands, which led Officer A to believe that Subject 1 may have been trying to conceal drugs or a weapon. Officer A's description of the traffic stop is similar to the one Subject 1 provided, including that Subject 1 repeatedly refused to follow commands unless Officer A explained the reason for them. Once Subject 1 cooperated and moved to the back of the car, he clenched his fists and continued acting angrily. Officer A interpreted this as an indication that he may punch Officer A, so he placed Subject 1 in handcuffs.

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<sup>4</sup> Attachment 43.

<sup>5</sup> Attachment 48.

After handcuffing Subject 1, Officer A conducted a pat down search for weapons. Officer A recalled that he used an open hand, went around Subject 1's waistband, then down each of his legs into the top of his shoe, then around his chest and arms. Officer A denied grabbing Subject 1's groin, but conceded that he may have brushed Subject 1's buttocks as part of the search of his back pockets. Subject 1 was unhappy about being patted down, however Officer A did not hear any mention of sexual assault. After the pat down search, Officer B wrote the traffic tickets.

Around this time, two female uniformed officers (Officers D and C) arrived on scene to offer assistance. Officer A decided to back off from Subject 1 because he seemed more amenable to speaking with the female officers. Officer A heard Subject 1 say that he would have been okay with what happened if it had been anyone other than Officer A, who was the only white officer on the scene. Officer A also stated that during the traffic stop, Subject 1 told Officer A multiple times that he did not like white police officers because white police officers were killing his people.

Officer A conducted a LEADS search of Subject 1 through the PDT computer in one of the police cars and discovered that Subject 1 was a documented member of the Black Disciples street gang and was on parole. Officer A also recalled that at some point during their interaction Subject 1 told Officer A he was on parole for homicide. Officer A stated that when he considered all the information he had (specifically, Subject 1's aggressive behavior, the evasive movements with his hands, his documented affiliation with a street gang, and the fact that he was on parole for homicide) he believed that he had reasonable suspicion to search Subject 1's car for hidden contraband. Officer A described his search as "quick" and limited to the area where Subject 1 had been sitting: around the driver's seat, floor, center console and dashboard. Officer A did not find anything illegal, so Subject 1 was released with his traffic citations.

In her October 4, 2017 statement to COPA,<sup>6</sup> **Witness Officer D** stated that she and Officer C drove past an unmarked police vehicle with their lights on conducting a traffic stop. According to Officer D, it is common practice when coming across other officers in the field to inquire whether they need assistance. The officers in the unmarked car indicated that they needed help, so Officers C and D pulled over to assist. Officer D observed Subject 1 handcuffed and standing behind his car. He was upset and being verbally abusive towards Officers A and B, saying things such as, "Fuck you, motherfucker" and, "You're a white devil". Officers C and D got out of their marked vehicle and approached Subject 1. They both attempted to calm Subject 1 and de-escalate the situation by speaking with him. Subject 1 mentioned to the officers that he had been in prison for murder. Officer D did not hear Subject 1 complain about being mistreated by Officers A and B, except for feeling that the traffic stop itself was unfair. Subject 1 eventually calmed down, one of the officers removed the handcuffs, and Officers C and D left the scene.

In her December 13, 2017 statement to COPA,<sup>7</sup> **Witness Officer C** provided essentially the same account of the incident as Officer D did. Officer C added that Mr. Subject 1 informed

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<sup>6</sup> Attachments 33-34.

<sup>7</sup> Attachment 50.

her he was on parole and had recently been released from prison. She described Subject 1 as being argumentative, acting belligerently and refusing to comply with the officers' orders.

### b. Documentary Evidence

**Traffic Citations TN-XXXXXX and TN-XXXXXX<sup>8</sup>** cite Subject 1 for driving with a license plate that was not lit and for having an obstruction in his rearview mirror. Officer B signed the citations.

An **Investigative Stop Report<sup>9</sup>** authored by Officer A contains essentially the same account of the incident that Officers A and B provided in their statements to COPA.

**PDT Messages** from Unit XXXX<sup>10</sup> (Officers A and B) shows that the officers accessed information about Subject 1 at 10:11 p.m. It revealed that Subject 1 was on parole and affiliated with the Black Disciples street gang.

## VI. ANALYSIS

COPA recommends a finding of **UNFOUNDED** for all allegations related to this incident. Upon review of all evidence, the facts are largely not in dispute. As Officer A stated, Subject 1's aggressively uncooperative behavior and quick movements with his hands provided sufficient justification for Officer A to remove Subject 1 from his car and pat him down for officer safety. It is also provided sufficient justification for Officers A and B to temporarily handcuff and detain Subject 1 while Officer A searched his car and Officer B wrote traffic citations. Although Subject 1 stated during his COPA statement that he felt as though he had been sexually assaulted during the pat down, all four officers stated that they never heard him complain on scene about an inappropriate pat down. Officer A offered a plausible explanation when he stated that he performed a standard pat down search, which may have included brushing Subject 1's buttocks while searching back pockets. It should also be noted that Subject 1 expressed racial bias against Officer A, the only white officer on scene, by telling everyone that he did not like white officers. Officer D stated that Subject 1 used the racial slur "white devil" against Officer A, while Officer A heard Subject 1 state that he would not have had a problem with the traffic stop if it had been conducted by someone else. This demonstrates racial animus on the part of Subject 1 and calls into question his motivation for filling this complaint as well as the veracity of his claim that Officer A patted him down inappropriately. Therefore, Allegations 1, 2, and 4 against Officer A, and Allegation 1 against Officer B are **UNFOUNDED**.

Regarding the vehicle search, the law offers two justifications for Officer A's actions. First, Officer A offered sufficient reasonable articulable suspicion to search Subject 1's vehicle for

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<sup>8</sup> Attachment 9.

<sup>9</sup> Attachment 31.

<sup>10</sup> Attachment 22.

reasons discussed earlier in this analysis. Furthermore, Subject 1's parole status provides another legal justification for the search. The standard conditions of Mandatory Supervised Release (i.e. parole) require parolees to "consent to a search of his or her person, property, or residence under his or her control", which in this case was Subject 1's vehicle.<sup>11</sup> When a parolee signs an MSR Agreement mandating that he "shall consent to a search," they do not prospectively consent to a search.<sup>12</sup> However, the United States Supreme Court and Illinois Supreme Court have both held that parolees enjoy a greatly diminished expectation of privacy based on their status as parolees and the government interest in preventing recidivism and protecting society from future crimes.<sup>13</sup> Here, Officer A knew of Subject 1's parole status prior to searching his vehicle because of information garnered from LEADS as well as Subject 1's admission to officers. Considering his status as a parolee and the resulting diminished expectation of privacy, as well as the other articulated factors that Officer A observed on scene, Officer A did not search Subject 1's car without justification. Thus, Allegation 3 against Officer A is also **UNFOUNDED**.

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

	<b>Allegation</b>	<b>Finding</b>
Officer A		
1. Pulled Subject 1 out of his vehicle without justification, in violation of Rule 8.		Unfounded
2. Patted down Subject 1 inappropriately by grabbing Subject 1's groin and buttocks, in violation of Rule 8.		Unfounded
3. Searched Subject 1's vehicle without justification or permission, in violation of Rule 1.		Unfounded
4. Handcuffed and detained Subject 1 without justification, in violation of Rule 1.		Unfounded
Officer B		
1. Handcuffed and detained Subject 1 without justification, in violation of Rule 1.		Unfounded

Approved:

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*Deputy Chief Administrator*

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Date

<sup>11</sup> 730 ILCS 5/3-3-7 (West 2016); see also the Illinois Department of Corrections' MSR Agreement: <https://www.illinois.gov/doc/parole/Documents/ParoleorMandatorySupervisedReleaseAgreement.pdf>

<sup>12</sup> *People v. Wilson*, 228 Ill. 2d 35, 39 (2008); *People v. Coleman*, 2013 IL App (1st) 130030, ¶ 14.

<sup>13</sup> *Wilson*, 228 Ill. 2d at 41 (and cases cited therein).

**Appendix A**

## Assigned Investigative Staff

<b>Squad:</b>	X
<b>Investigator:</b>	1
<b>Supervising Investigator:</b>	2
<b>Deputy Chief Administrator:</b>	3